



COMPARISON OF EPIDEMIC LAWS: UNITED KINGDOM, UNITED STATES OF AMERICA AND INDIA

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Abstract

“In this study, the legislative frameworks that regulate epidemic response in the United

Kingdom, the United States of America, and India are analysed and compared to one another. Within the setting of three different jurisdictions, this paper investigates the historical development of epidemic law, as well as its constitutional foundations, operational frameworks, and effectiveness. This research makes use of a comparative analysis in order to shed light on the advantages, disadvantages, and best practices that are inherent in the approach that each nation takes to the management of various public health situations. During the COVID-19 pandemic, a notable case study was conducted, which illustrated the operational dynamics of legal systems when they were subjected to extreme conditions. According to the findings, there are significant differences in the areas of centralisation, emergency powers, judicial monitoring, and the equilibrium between public health priority and civil freedoms. This investigation into three diverse systems, each of which is distinguished by a different set of political structures and legal traditions, offers useful insights that are targeted at improving the efficiency, fairness, and responsiveness of epidemic law in the context of future public health catastrophes.”

Keywords: Epidemic law, public health emergency, comparative legal analysis, COVID-19, emergency powers, United Kingdom, United States, India

INTRODUCTION

Context and Significance

Both pandemics and epidemics pose substantial challenges to public health, as well as to the stability of the economy and the cohesiveness of individuals. The legal frameworks that regulate responses to these crises serve as the institutional underpinning through which states allocate resources, impose mobility restrictions, enforce public health measures, and reconcile opposing societal interests. These frameworks are responsible for regulating reactions to different crises. Since the beginning of the COVID-19 pandemic in late 2019, it has acted as a significant investigation of epidemic laws around the world. This examination has revealed both the strengths and shortcomings that are inherent in diverse legal frameworks and governmental institutions.

This comparative investigation looks at three countries that are distinguished by their distinct legal traditions and governance frameworks: the United Kingdom, which operates under an unwritten constitution and parliamentary sovereignty; the United States, which is distinguished by its federal system and robust constitutional safeguards for individual rights; and India, which is recognised as the largest democracy in the world and operates within a federal structure on the basis of a post-colonial context. In order to allow the extraction of key insights regarding the design and execution of good epidemic laws, the analysis of these various techniques is extremely helpful.

RESEARCH OBJECTIVES

This paper aims to:

1. Examine the historical development of epidemic laws in the United Kingdom, the United States of America, and India, as well as the constitutional foundations of these laws.
2. Conduct an analysis of the operational procedures, particularly the distribution of authority among the various levels of government.



3. Examine the equilibrium that exists between the preservation of civil liberties and the imperatives of public health.

METHODOLOGY

In this study, doctrinal legal analysis, comparative methodology, and case study approaches are included as methods of investigation. The legislation, rules, judicial decisions, and official government documents that originate from each country are the key sources that were utilised in this investigation. Literature from academic institutions, documents pertaining to policy, and reports compiled by international organisations are examples of secondary sources. It is important to note that the COVID-19 pandemic serves as a fundamental case study, providing a common reference point for the evaluation of the operational dynamics of these legal frameworks under comparable conditions, albeit within different contexts.

HISTORICAL DEVELOPMENT OF EPIDEMIC LAWS

United Kingdom

The United Kingdom's strategy to controlling epidemics has undergone significant change over the course of several centuries, driven by its past experiences with major outbreaks. This means that the technique has undergone significant modification. It is possible to trace the beginning of organised law all the way back to the 1300s, when regulations were enacted with the intention of combating the Black Death. The installation of more complex quarantine regulations in the 17th and 18th centuries, which were passed in reaction to successive plague epidemics, succeeded this in the 17th and 18th centuries (Porter, 1999).¹

The Public Health Act, which was passed into law in 1848, led to the establishment of local health boards that were vested with the responsibility to address concerns pertaining to sanitary conditions. This marked the beginning of the evolution of public health laws in Britain. According to (Hamlin and Sheard 1998),² this piece of law reflects a significant shift in the way that the state is held accountable for the maintenance of public health practices. The previous structure was improved by the Infectious Disease (Notification) Act of 1889, which mandated the reporting of certain infectious diseases. This act created a necessity for the reporting of certain diseases.

Examples of the convergence of these techniques during the 20th century were the Public Health Acts of 1936 and 1984, which established comprehensive frameworks for disease control. These acts were passed in the United States. In spite of this, the most significant development in the field of contemporary epidemic response was the passage of the Civil Contingencies Act in 2004. This law was enacted in reaction to the events that occurred in relation to foot-and-mouth disease and the anticipated threat of bioterrorism. According to (Anderson and Adey 2012),³ this piece of law established a tiered structure for emergency response processes.

The Health and Social Care Act of 2008 brought about significant changes to the legal framework that governs the management of epidemics. These changes were followed by other amendments that were established by the Coronavirus Act of 2020. For the purpose of properly reacting to the COVID-19 pandemic, this latter statute bestowed unprecedented authorities upon the government representatives.

¹ Porter, D. (1999). *Health, civilization and the state: A history of public health from ancient to modern times*. Routledge.

² Hamlin, C., & Sheard, S. (1998). *Revolutions in public health: 1848, and 1998?* BMJ, 317(7158),

587-591. ³ Anderson, B., & Adey, P. (2012).

Governing events and life: 'Emergency' in UK Civil Contingencies. Political Geography, 31(1), 24-33.



United States of America

The United States of America's strategy to controlling epidemics is illustrative of the federal organisation of the country as well as the constitutional emphasis placed on the protection of individual rights. Early public health measures in colonial America were typified by local administration, which resulted in a variety of quarantine laws across different colonies (Parmet, 2002).³ This was the case because of the geographical location of the colonies. In the years following the attainment of independence, the Tenth Amendment ensured that individual states continued to have primary jurisdiction over issues pertaining to public health.

Over the course of time, there has been a gradual increase in the level of involvement that the federal government has taken in the monitoring and management of epidemic control. In the year 1798, the Marine Hospital Service was founded with the primary purpose of providing medical services to merchant seafarers and establishing maritime quarantine measures. Because of this, the Marine Hospital Service functioned as the precursor to the "United States Public Health Service." According to (Goodman 2007)⁴, the National Quarantine Act of 1878 made it easier for federal authorities to assist state governments in their efforts to prevent the spread of contagious diseases.

The Public Health Service Act of 1944 was a significant step towards consolidating federal authority. It gave the United States Surgeon General the ability to undertake policies that were designed "to prevent the introduction and spread of communicable

illnesses." According to (Gostin 2008),⁵ the implementation of additional legislation, most notably the Federal Food, Drug, and Cosmetic Act in conjunction with the Pandemic and All-Hazards Preparedness Act, has resulted in an increase in the capacity of the federal government.

In spite of these developments, the legal structure that governs epidemics in the United States is characterised by a complex interaction between federal, state, and local institutions working together. According to (Parmet's 2020 report)⁶ states continue to hold major policing powers, which provide them the ability to develop and implement legislation pertaining to public health health.

India

Because of the historical background of colonial control, the legislative framework that governs epidemics in India is strongly impacted by its past. The Epidemic Diseases legislation of 1897, which was enacted by the British colonial authority as a response to the outbreak of bubonic plague in Bombay (now Mumbai), serves as the basis for India's strategy to managing epidemics. This legislation provided the basic framework upon which India's method to managing epidemics is based. The authorities are granted broad powers to adopt "such measures...as may be necessary to prevent the outbreak or spread of such disease" (Sharma, 2020).⁷ This legislation is notable for its brevity, which is one of its defining characteristics.

In the years following the country's attainment of independence, India continued to adhere to the

³ Parmet, W. E. (2002). After September 11: Rethinking public health federalism. *Journal of Law, Medicine & Ethics*, 30(2), 201-211.

⁴ Goodman, R. A. (2007). *Law in Public Health Practice* (2nd ed.). Oxford University Press.

⁵ Gostin, L. O. (2008). *Public Health Law: Power, Duty, Restraint* (2nd ed.). University of California Press.

⁶ Parmet, W. E. (2020). The legal framework for public health emergency responses to COVID-19. In S. Burris,

S. de Guia, L. Gable, D. E. Levin, W. E. Parmet, & N. P. Terry (Eds.), *Assessing Legal Responses to COVID-19*

⁷ Sharma, D. C. (2020). India's Epidemic Diseases Act needs revision to tackle future epidemics. *The Lancet Infectious Diseases*, 20(7), 770.



colonial laws that were already in place while simultaneously introducing the Disaster Management Act of 2005. Through the passage of this legislation, a more comprehensive framework for the management of various disasters was developed. This framework included biological emergencies, among other categories of disasters. Furthermore, within the context of India's federal structure, a number of states have enacted legislation pertaining to public health (Rao, 2016).⁸

There have been significant legal advancements brought about as a result of the COVID-19 pandemic. These include amendments to the Epidemic Diseases Act that are intended to improve protections for healthcare professionals, as well as the widespread application of the Disaster Management Act to enforce nationwide lockdowns and various containment strategies (Tiwari, 2020).⁹ (pp. 20-25). Public Health Law Watch.

CONSTITUTIONAL AND LEGAL FOUNDATIONS

United Kingdom

The unwritten constitution of the United Kingdom and the idea of parliamentary sovereignty both play a role in shaping the strategy that the country takes to controlling epidemics. Parliament has the ability to make nearly any law, even those that confer considerable emergency powers, because it is not constrained by a codified constitution (Frosini, 2020).¹⁰ These constitutional conventions, common law norms, and, more recently, human rights duties

under “the Human Rights Act of 1998, which incorporated the European Convention on Human Rights into domestic law,” all serve to limit the degree of freedom that is available.

There are several primary legislative frameworks for responding to epidemics, including:

1. “The Public Health (Control of Disease) Act of 1984,” which was revised by the Health and Social Care Act of 2008, is a piece of legislation that grants authorities to control the transmission of infectious illnesses.
2. “The Civil Contingencies Act of 2004,” which has been passed in order to develop a framework for the responses to civil emergencies
3. The Coronavirus Act of 2020, which gave temporary emergency powers expressly for the COVID-19 pandemic, was passed in 2020.

Secondary legislation, which mostly consists of regulations issued by ministers using statutory authority, is the primary source of secondary legislation. The aforementioned acts function in combination with secondary legislation. However, it raises concerns about democratic supervision, particularly in situations where the role of Parliament in inspection is limited during times of emergency (Phillipson, 2020).¹¹ This methodology makes it easier to respond quickly, but it also raises concerns about democratic oversight.

⁸ Rao, S. (2016). The emergence of a surveillance state: A comparative analysis of pandemic influenza, SARS, and Ebola. *Osgoode Hall Law Journal*, 54(1), 77-108.

⁹ Tiwari, R. (2020). The role of the Epidemic Diseases Act, 1897 and the National Disaster Management

Authority Act, 2005 in India's fight against COVID-19: A critical analysis. *International Journal of Law and Policy Review*, 9(2), 127-141.

¹⁰ Frosini, J. O. (2020). The role of the United Kingdom Parliament in the response to Covid-19: A comparative perspective. *The Theory and Practice of Legislation*, 8(1-2), 115-130.

¹¹ Phillipson, G. (2020). COVID-19, the anti-vaccination movement, and the battle for persuasion. *Legal Studies*, 40(3), 394-408.



United States of America

It is the federal structure of the United States of America and the provisions that are specified in its written constitution that have a significant impact on the approach that the country takes to the control of epidemics. The division of authority among the federal government, state

governments, and local governments is typified by the attribution of major "police powers" to the states. This gives the states the ability to adopt policies that are intended "to protect public health, safety, and welfare" (Wiley, 2020).¹²

Several constitutional clauses give the federal government the authority to regulate epidemics, including the following:

1. The Commerce Clause includes provisions that allow for the regulation of both domestic and international trade.
2. "Necessary and Proper Clause," which grants Congress the authority to adopt laws that are necessary for the exercise of its defined powers
3. According to the General Welfare Clause, the federal government is allowed to spend money on the general welfare.
4. For the purpose of facilitating the execution of international health agreements, the Treaty Power

One of the most important pieces of federal legislation is "the Public Health Service Act, which gives the Secretary of Health and Human Services the authority" to institute policies that are designed to stop the introduction and spread of infectious diseases.

¹² Wiley, L. F. (2020). Federalism in pandemic prevention and response. In S. Burris, S. de Guia, L. Gable, D. E. Levin, W. E. Parmet, & N. P. Terry (Eds.), *Assessing Legal Responses to COVID-19* (pp. 65-70). Public Health Law Watch.

¹³ Parmet, W. E. (2020). The legal framework for public health emergency responses to COVID-19. In

Nevertheless, these powers are limited by constitutional safeguards that protect individual rights, in particular those that are established in the Bill of Rights (Parmet, 2020).¹³

Even while state powers are more comprehensive, they are nevertheless subject to constraints imposed by the constitution. According to (Gostin and Wiley 2016),¹⁴ the fact that every state has its own set of public health legislation results in a complicated patchwork of authorities and procedures taking place across the country.

India

The constitutional framework of India for the management of epidemics is reflective of the country's federal system, which is typified by a strong central government. Using three distinct lists Union, State, and Concurrent the Constitution of India outlines the distribution of legislative powers between the Union (central) government and the states." These lists explain how the legislative powers are divided. In accordance with the definitions provided in Entry 6 of the State List, public health and sanitation are primarily classified as state subjects. On the other hand, preventative measures against infectious diseases that spread over state lines are categorised under Entry 29 of the Concurrent List. It is possible for both the federal government and state governments to exercise legislative authority thanks to this classification (Das Gupta

The central government derives additional authority from:

S. Burris, S. de Guia, L. Gable, D. E. Levin, W. E. Parmet, & N. P. Terry (Eds.), *Assessing Legal Responses to COVID-19* (pp. 20-25). Public Health Law Watch.

¹⁴ Gostin, L. O., & Wiley, L. F. (2016). *Public health law: Power, duty, restraint* (3rd ed.). University of California Press.



1. Article 352 (Emergency Provisions), although not typically invoked for health emergencies
2. Article 256, requiring states to comply with central laws
3. Entry 81 of the Union List, covering inter-state migration and quarantine

The Epidemic Diseases Act of 1897, which is a statute that dates back to the colonial era, serves as the basic legislative framework that governs epidemic control. This framework is further strengthened by the provisions of “the Disaster Management Act of 2005, which was passed in 2005.” Different public health legislation has been enacted by a number of different states, which has led to a variety of approaches being utilised across the country (Tiwari, 2020).¹⁵

Fundamental rights are recognised within the context of India's constitutional structure, with Article 21 of the constitution specifically enshrining the right to life. Through the application of judicial interpretations, the scope of this provision has been expanded to include the right to health. Despite the fact that this circumstance creates the possibility of conflicts between public health programs and individual rights, Indian judicial bodies have, on average, accorded a significant amount of regard to the requirements of public health (Khosla, 2020).¹⁶

OPERATIONAL MECHANISMS

United Kingdom

The operational response of the United Kingdom to epidemics is typified by a governance structure that is comprised of multiple layers within the system. “At the national level, the Department of Health and Social Care is the major entity responsible for carrying out the responsibilities, and the Chief Medical Officer is the individual who is responsible for providing scientific advice. As the specialised agency responsible for health protection and the management of infectious illnesses, the United Kingdom Health Security Agency, which was formerly known as Public Health England, is currently in charge of these responsibilities” (Hunter, 2020).¹⁷

In the context of severe epidemics, the system in the United Kingdom demonstrates a substantial level of centralisation, which is especially noticeable. In the event of a national emergency, the Cabinet Office Briefing Room (COBR) system is utilised. This mechanism serves to facilitate the gathering of ministers, officials, and subject matter specialists in order to guarantee a coordinated response to the situation that is currently being faced. According to (Freedman 2020),¹⁸ the Scientific Advisory Group for Emergencies (SAGE) is a source of scientific and technological guidance that is intended to facilitate the process of making informed decisions.

According to “the Public Health (Control of Disease) Act 1984 and the Coronavirus Act 2020,” ministers are granted a significant amount of authority to promulgate laws through Statutory Instruments. This

¹⁵ Tiwari, R. (2020). The role of the Epidemic Diseases Act, 1897 and the National Disaster Management

Authority Act, 2005 in India's fight against COVID-19: A critical analysis. *International Journal of Law and Policy Review*, 9(2), 127-141.

¹⁶ Khosla, M. (2020). Proportionality in Indian constitutional law. In V. C. Jackson & M. Tushnet

(Eds.), *Proportionality: New Frontiers, New Challenges* (pp. 284-304). Cambridge University Press.

¹⁷ Hunter, D. J. (2020). Covid-19 and the stiff upper lip—The pandemic response in the United Kingdom. *New England Journal of Medicine*, 382(16), e31.

¹⁸ Freedman, L. (2020). Strategy for a pandemic: The UK and COVID-19. *Survival*, 62(3), 25-76.



allows them to avoid extensive parliamentary investigation. At the same time, the overarching structure during severe epidemics is marked by centralised control (Calvert & Arbuthnott, 2021).¹⁹ Local authorities continue to exercise certain competences, particularly in the context of small outbreaks. However, the centralised method has been criticised for missing enough legislative supervision, insufficient local input, and an excessive concentration of ministerial authority (Hickman et al., 2020).²⁰ Despite the fact that it makes it easier to take prompt and coordinated action, it has been widely criticised.

United States of America

A diverse and intricate response structure has been developed as a result of the federalist framework that governs the United States of America, which is reflected in the way epidemics are managed in the country. There are a number of departments at the federal level that are assigned with shared tasks, with “the Department of Health and Human Services (HHS)” taking on a leadership role. “The Centres for Disease Control and Prevention (CDC)” is an organisation that plays a crucial function within “the Department of Health and Human Services (HHS).” Its primary responsibilities include providing technical knowledge and developing guidelines. According to (Gostin and Wiley 2016),²¹ “the Office of the Assistant Secretary for Preparedness and Response is both responsible for the coordination of disaster responses and the coordination of emergency responses.” When it comes to public health, the states are primarily responsible for ensuring that their police authorities

are appropriately exercised. The execution of control measures by state health departments includes a variety of techniques, such as the imposition of limits on company operations, the imposition of quarantine, isolation, and the beginning of vaccination campaigns. It is common for local health departments to act as main responders, altering state directions so that they are in line with the particular circumstances of the local community (Wiley, 2020).²²

Because of the decentralised nature of this system, there is a significant amount of variation in responses between the many states and regional areas. During the course of the COVID-19 pandemic, a number of states adopted laws that demanded the use of masks, closed businesses, and established vaccination policies that were significantly different from one another. According to Haffajee and Mello's research from 2020, these discrepancies can be due to a variety of variables, such as different political climates, limited resources, and different appraisals of risk.

In most cases, the federal government exerts its influence on the acts of the states through mechanisms such as money, the provision of technical support, and the promotion of interstate cooperation. This is in contrast to the direct control that the federal government exercises over the states. Guidelines are provided by the Centres for Disease Control and Prevention (CDC), which allows individual states to choose whether or not to accept them. At the same time, federal announcements of public health crises make it easier to gain access to money and regulatory flexibility.

¹⁹ Calvert, J., & Arbuthnott, G. (2021). Failures of State: The Inside Story of Britain's Battle with Coronavirus. HarperCollins.

²⁰ Hickman, T., Dixon, R., & Jones, R. (2020). Coronavirus and civil liberties in the UK. *Judicial Review*, 25(2), 151-170.

²¹ Gostin, L. O., & Wiley, L. F. (2016). Public health law: Power, duty, restraint (3rd ed.). University of California Press.

²² Wiley, L. F. (2020). Federalism in pandemic prevention and response. In S. Burris, S. de Guia, L. Gable, D. E.

Levin, W. E. Parmet, & N. P. Terry (Eds.), *Assessing Legal Responses to COVID-19* (pp. 65-70). Public Health Law Watch.



but, it may inhibit coordinated action during nationwide catastrophes and produce confusion when federal and state messaging diverges. This fragmented approach makes it easier to develop locally tailored responses; but, it may also hinder coordinated action.

India

The response to epidemics in India is typified by a multidimensional interaction between central, state, and local authorities. This contact is part of the operational response. While the National Centre for Disease Control provides specific technical knowledge to support the activities of “the Ministry of Health and Family Welfare, the Ministry of Health and Family Welfare” works as the primary authority at the national level. According to (Ray et al.'s 2020)²³ the National Disaster Management Authority, which is led by the Prime Minister, plays a crucial part in the process of putting the Disaster Management Act into effect. This was demonstrated during the COVID-19 pandemic.

All of the regulatory measures are carried out by the state governments through their respective health departments and specialised agencies. In rural areas, where the presence of national and state authorities may be limited, district administrations and local bodies serve as major implementers (Sharma, 2020).²⁴ This is especially true in rural areas.

In accordance with the Epidemic Diseases Act, both the central government and state governments are granted the authority to create and enforce legislation that are designed to prevent the spread of epidemics. Both the authority to conduct inspections of vessels and the authority to detain individuals at ports are assets that are held by the central government. In the meanwhile, state governments have the authority to put into effect any preventative measures that they deem essential in order to reduce the risk of disease transmission. According to (Das Gupta and Karmakar's 2020),²⁵ the Disaster Management Act augments the authority of the National Executive Committee, making it possible for the committee to coordinate responses and provide directives that are legally obligatory to member states.

When it comes to coordination, India's federal structure provides a number of important obstacles, particularly when it comes to events that occur across the entire country. With regard to the COVID-19 pandemic, the central government played a crucial part in the first response by adopting a statewide lockdown in accordance with the rules of the Disaster Management Act. This was done in order to ensure that the pandemic would not spread further. Throughout the course of the pandemic, there was a discernible pattern in which states gained increasing autonomy in the customisation of control measures to correspond with local conditions (Khosla, 2020).²⁶ This trend was observed throughout the evolution of the pandemic.

²³ Ray, D., Salvatore, M., Bhattacharyya, R., Wang, L., Du, J., Mohammed, S., Purkayastha, S., Halder, A., Rix,

A., Barker, D., Kleinsasser, M., Zhou, Y., Bose, D., Song, P., Banerjee, M., Baladandayuthapani, V., Ghosh,

P., & Mukherjee, B. (2020). Predictions, role of interventions and effects of a historic national lockdown in India's response to the COVID-19 pandemic: Data science call to arms. *Harvard Data Science Review*, 2(1).

²⁴ Sharma, D. C. (2020). India's Epidemic Diseases Act needs revision to tackle future epidemics. *The Lancet Infectious Diseases*, 20(7), 770.

²⁵ Das Gupta, M., & Karmakar, S. (2020). Covid-19 and the Constitution of India: Analysis of constitutional provisions and their implications in pandemic management. *Indian Journal of Public Administration*, 66(3), 306-319.

²⁶ Khosla, M. (2020). Proportionality in Indian constitutional law. In V. C. Jackson & M. Tushnet (Eds.), *Proportionality: New Frontiers, New Challenges* (pp. 284-304). Cambridge University Press.



The complications that are inherent in India's federal structure are illustrated by this evolving methodology. In particular, the interaction between centralised emergency management and the recognition of the constitutional power of states in matters pertaining to public health is highlighted.

BALANCE BETWEEN PUBLIC HEALTH AND CIVIL LIBERTIES

United Kingdom

The strategy that the United Kingdom has used in the past to reconcile public health imperatives with civil liberties in the middle of epidemics has historically favoured public health issues, demonstrating a limited number of constitutional constraints on the power of the government. According to (Hickman et al.'s 2020)²⁷ the Human Rights Act of 1998 mandated that any limits that were imposed must be both proportionate and essential. This was done in order to ensure better safeguards for individual rights.

As a response to the COVID-19 epidemic, the government of the United Kingdom implemented a set of restrictions that had never been executed before. These measures were designed to regulate economic activity, as well as mobility and assembly. Judicial authorities often demonstrated respect towards executive determinations regarding the necessity of public health initiatives; but, they insisted that such measures be supported by rational justification and correspond with existing statutory authority (Molloy, 2021).²⁸

As indicated by the provisions of the Coronavirus Act 2020, which mandates renewals by Parliament every six months, the system of parliamentary oversight serves as an essential check on the powers of the executive branch. This is evidenced by the fact that the

act mandates every six months. Despite this, a considerable number of restrictions were adopted through the use of statutory instruments, which were subjected to a low amount of parliamentary scrutiny, which resulted in concerns over democratic accountability (Phillipson, 2020).²⁹

In the United Kingdom, the legal framework is distinguished by the absence of explicit "sunset clauses" within its permanent pandemic law. This is a defining characteristic of the framework. The interim provisions that were formed as a result of the Coronavirus Act, on the other hand, included designated expiration dates. There have been criticisms levelled against this methodology due to the fact that it has a propensity to normalise extraordinary capabilities while simultaneously failing to provide necessary safeguards for civil liberties (Greene, 2020).³⁰

United States of America

As an indication of the robust constitutional tradition that the United States possesses in terms of individual rights, the methodology that is utilised in the United States to reconcile public health imperatives with civil liberties exhibits this heritage. Courts have, throughout history, recognised considerable state police powers with the intention of protecting public health. Nevertheless, they have mandated that restrictions imposed on fundamental rights must be subjected to a variety of various levels of examination.

As a direct response to the COVID-19 pandemic, a number of states implemented significant restrictions on transportation, assembly, and economic activity. In the course of the pandemic, judicial bodies gradually increased the intensity of their assessment of public health directives, which resulted in a range of

²⁷ Hickman, T., Dixon, R., & Jones, R. (2020).

Coronavirus and civil liberties in the UK. *Judicial Review*, 25(2), 151-170.

²⁸ Molloy, S. (2021). COVID-19, emergency legislation and sunset clauses. *Policy Sciences*, 54(3), 523-544.

²⁹ Phillipson, G. (2020). COVID-19, the anti-vaccination movement, and the battle for persuasion. *Legal Studies*, 40(3), 394-408.

³⁰ Greene, A. (2020). *Emergency powers in a time of pandemic*. Manchester University Press.



legal issues being confronted during the implementation of these measures. The initial judicial rulings showed a significant amount of respect for the power of the executive branch; nevertheless, following decisions scrutinised the necessity and proportionality of the limits that were imposed, particularly those that had an effect on religious activities (Wiley & Vladeck, 2020).³¹

In the United States of America, the decentralised structure of federalism has led to significant differences in the method in which this balance has been achieved among the several states. Certain nations placed a greater focus on the value of individual rights and economic freedom by adopting minimum limitations, whereas other states established more stringent regulations with the intention of preventing the spread of the virus (Haffajee & Mello, 2020).³²

When it comes to epidemics, the legal structure that governs them in the United States often does not include formal proportionality criteria that are present in other legal systems. On the other hand, judicial authorities have developed theories that serve comparable functions within the context of this discussion. When it comes to emergency powers, they are often characterised by temporal constraints, which require either renewal or expiration at predetermined intervals. Furthermore, the delineation of powers between the executive and legislative branches serves as a structural safeguard against the

potential for persistent extensions of emergency authority (Lindsay, 2020).³³

India

The historical strategy that India has taken in order to reconcile public health objectives with civil liberties during epidemic conditions has primarily tended towards vigorous governmental engagement, which is marked by low judicial scrutiny. The Epidemic Diseases Act, which dates back to the colonial era, contains a limited number of specific safeguards for individual rights. This can be attributed to the fact that it was developed under a context that was not democratic (Tiwari, 2020).³⁴

A foundation for fundamental rights is provided by the Constitution of India. This framework includes freedoms pertaining to mobility, assembly, and occupation on the part of individuals. Restrictions can be placed on these rights, particularly when public health concerns are taken into consideration. India implemented one of the most extreme lockdown measures in the world as a response to the COVID-19 epidemic. These precautions significantly restricted both movement and economic operations of the country. In general, judicial authorities displayed a tendency to defer to the decisions made by executive branches regarding the necessity of public health interventions. Nevertheless, there were instances of court intervention in circumstances that were defined by severe hardship (Khosla, 2020).³⁵

A complete framework for the right to health

³¹ Wiley, L. F., & Vladeck, S. D. (2020). Coronavirus, civil liberties, and the courts: The case against "suspending" judicial review. *Harvard Law Review Forum*, 133, 179-198.

³² Haffajee, R. L., & Mello, M. M. (2020). Thinking globally, acting locally—The U.S. response to Covid-19.

New England Journal of Medicine, 382(22), e75.

³³ Lindsay, M. (2020). The eternal emergency? Emergency powers, public health and COVID-19. *Federal Law Review*, 48(4), 574-589.

³⁴ Tiwari, R. (2020). The role of the Epidemic Diseases Act, 1897 and the National Disaster Management Authority Act, 2005 in India's fight against COVID-19: A critical analysis. *International Journal of Law and Policy Review*, 9(2), 127-141.

³⁵ Khosla, M. (2020). Proportionality in Indian constitutional law. In V. C. Jackson & M. Tushnet (Eds.),



jurisprudence has been constructed by the Indian judiciary in accordance with Article 21, which incorporates the right to life. It is possible that this new trend would result in potential conflicts when measures taken to improve public health impose constraints on other fundamental rights. In spite of this, there is empirical data that suggests that judicial bodies have only occasionally rejected public health rules on the basis of civil rights issues (Parmet et al., 2021).³⁶

An absence of specific sunset provisions is one of the defining characteristics of the legislative framework that governs epidemics in India for the country. The Epidemic Diseases Act grants comprehensive emergency powers that do not have a predetermined expiration date. On the other hand, the measures that were established under the Disaster Management Act continue to be in effect until they are explicitly revoked. According to (Ray et al.'s 2020)³⁷ this methodology has caused people to be concerned about the possibility of special authorities normalising their practices.

Conclusion and Suggestions

The purpose of this comparative examination of epidemic laws in the United Kingdom, the United States of America, and India is to shed light on important observations regarding the influence of different constitutional frameworks on pandemic response methods. It is symptomatic of each nation's specific historical evolution, governance framework, and the equilibrium that is maintained between public health priority and civil freedoms that each nation has selected a particular strategy.

Additionally, the notion of parliamentary sovereignty, in conjunction with the unwritten constitution of the United Kingdom, makes it possible for the government to quickly and centrally respond to a variety of crises. On the other hand, this paradigm raises substantial questions over the sufficiency of democratic supervision and the possibility of ministers being granted an excessive amount of authority. As a consequence of the federal system in the United States, a wide variety of reactions are produced, each of which is distinguished by significant variations across the states. Despite the fact that this framework makes it easier to implement locally tailored tactics, it also has the potential to impede the accomplishment of unified national projects. An example of a developing interaction between centralised emergency management and the liberty of states in handling public health issues is provided by the federal structure of India, which is marked by a robust central government.

Every one of the three countries faces the same challenges when it comes to balancing the requirements of public health with the protection of civil freedoms. Concerns pertaining to public health are often given the highest priority in the United Kingdom, which has constitutional restrictions on the authority of the government that are relatively weak. In the context of the epidemic, the United States of America demonstrates a robust constitutional framework for the protection of individual rights. This framework is distinguished by an expanding judicial assessment of public health directives. India's strategy is typified by vigorous governmental engagement, accompanied by a relatively restricted

³⁶ Parmet, W. E., Burris, S., Gable, L., de Guia, S., Levin, D. E., & Terry, N. P. (2021). COVID-19: The promise and failure of law in an inequitable nation. *American Journal of Public Health*, 111(1), 47-49.

³⁷ Ray, D., Salvatore, M., Bhattacharyya, R., Wang, L., Du, J., Mohammed, S., Purkayastha, S., Halder,

A., Rix, A., Barker, D., Kleinsasser, M., Zhou, Y., Bose, D., Song, P., Banerjee, M., Baladandayuthapani, V., Ghosh, P., & Mukherjee, B. (2020). Predictions, role of interventions and effects of a historic national lockdown in India's response to the COVID-19 pandemic: Data science call to arms. *Harvard Data Science Review*, 2(1).



amount of judicial monitoring. This method is representative of India's international approach.

The results of this investigation include a number of suggestions. In order to prevent the possibility of exceptional powers becoming more commonplace, it is essential that legislation pertaining to epidemics incorporates sunset clauses that are explicitly specified. In addition, it is of the utmost importance that the requirements for proportionality be explicitly established in order to ensure that any constraints that are put on rights are both necessary and appropriate. Third, it is of the utmost importance that legal frameworks provide specific mechanisms for the supervision of legislative activities that are related to executive measures that are implemented during times of emergency. One of the most important things that needs to be done in the context of federal systems is to make the tasks that are given to the different levels of government more clear. While concurrently ensuring that local autonomy is preserved at an appropriate degree, this enhancement is vital for encouraging effective coordination and has the potential to do both simultaneously. In conclusion, it is of the utmost importance that laws pertaining to epidemics be subjected to consistent reviews and revisions in order to ensure that they are in line with the progression of scientific knowledge and the shifting landscape of societal values.

On the other hand, the execution of these proposals is likely to make it possible for nations to build legal frameworks that are more efficient, well-balanced, and democratically responsible in the management of future public health emergencies, all while also protecting fundamental rights and freedoms.
